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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,374	03/13/2001	Kurt Wallerstorfer	HPBC C-79	1590

7590 10/20/2004

Flynn Thiel Boutell & Tanis
2026 Rambling Road
Kalamazoo, MI 49008-1699

EXAMINER

CHO, HONG SOL

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/720,374	WALLERSTORFER, KURT	
	Examiner	Art Unit	
	Hong Cho	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10072004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 11-17 are considered for the examination since claims 1-10 are canceled as indicated in an amendment paper dated in December 20, 2000.

Drawings

1. New corrected drawings are required in this application because legends are not complete for Figures 1 and 2. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanaoka et al (U.S 5521590), hereinafter referred to as Hanaoka, in view of Kuffner et al (U.S 5905372), hereinafter referred to as Kuffner.

Re claim 11 and 15-17, Hanaoka discloses an electromagnetic coupled data carrier for receiving an alternating current magnetic field emitted from fixed facilities to carry out

bidirectional noncontact data communication (*a method for bi-directional communication between contactless-type data carriers and terminals which are provided with devices for radiating electromagnetic waves for nongalvanic, electromagnetic coupling with the data carriers*, column 1, lines 11-17). Hanaoka fails to disclose varying transmitting power of the terminal in accordance with the data transfer rate and the data transfer rate with the distance of the data transfer. However, Kuffner discloses a terminal with varying capability of transmission power in accordance with the data transfer rate (*the transmitting power of the terminal is varied in accordance with the data transfer rate*, column 4, lines 42-46). Kuffner discloses a very low data rate system for a long-range operation and a high data rate for a short-range operation (*a terminal that the data transfer rate is fixed in accordance with the distance of data transfer and dependent on the data transfer distance*, column 3, lines 32-34; lines 42-44).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Kuffner into Hanaoka to provide an activity-dependent power level and data transfer rate in accordance with the distance of data transfer within the FCC regulatory emission limits for the ISM band as stated in column 2 at lines 34-39. Re claim 12, Hanaoka fails to disclose fixing data transfer rate based on the data transfer distance at the start of data transfer. However, Kuffner discloses a terminal that data signal is transmitted in a first mode of operation in a predetermined fashion depending on the desired data rate and desired read range (*the data transfer rate corresponding to the data transfer distance is fixed at the onset of data transfer*, column 3, lines 5-7; lines 25-27). It would have been obvious to one having ordinary skill in the art at the time the

invention was made to implement Kuffner into Hanaoka to transfer data corresponding to the data transfer distance at the start of data communication so that the data carrier can receive stably data regardless of the location of the data carrier.

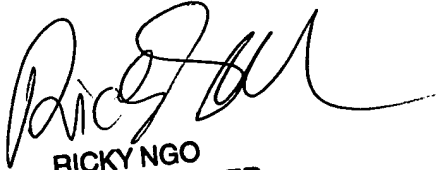
Re claims 13 and 14, Hanaoka fails to disclose explicitly a control signal as an identification code for the particular data transfer rate. However, Kuffner discloses a first and second communication mode where a power signal in combination with the ASK modulated data signal with desired data rate is transmitted, respectively (*amplitude modulated signal is transmitted as an identification code for the particular data transfer rate*, column 3, lines 5-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement Kuffner into Hanaoka to provide control information on the data transfer rate for the data carrier to determine power requirements.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - US Patent (5354975) to Ishibashi et al discloses contactless data processing apparatus
 - US Patent (6068193) to Kreft discloses process for exchanging energy and data between a read/write terminal and a chip card
 - US Patent (5548291) to Meier et al discloses read/write transponder arrangement and method of communication

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hong Cho whose telephone number is 571-272-3087. The examiner can normally be reached on Mon-Fri during 7 am to 4 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3088. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hong Cho
Patent Examiner
10-7-2004


RICKY NGO
PRIMARY EXAMINER